

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TQ DELTA, LLC,)	
)	
Plaintiff,)	C.A. No. 13-cv-1835-RGA
)	
v.)	
)	FILED UNDER SEAL
2WIRE, INC.,)	
)	
Defendant.)	

[PROPOSED] JOINT PRETRIAL ORDER FOR FAMILY 6 – VALIDITY ONLY TRIAL

Dated: July 1, 2022

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
FARNAN LLP
919 North Market Street, 12th Floor
Wilmington, Delaware 19801
(302) 777-0300
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Peter J. McAndrews (admitted *pro hac vice*)
Thomas J. Wimbiscus (admitted *pro hac vice*)
Paul W. McAndrews (admitted *pro hac vice*)
Rajendra A. Chiplunkar (admitted *pro hac vice*)
Ashley M. Ratycz (admitted *pro hac vice*)
MCANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
(312) 775-8000
(312) 775-8100 (Fax)
pmcandrews@mcandrews-ip.com

Counsel for Plaintiff TQ Delta, LLC

Jody C. Barillare (#5107)
MORGAN LEWIS & BOCKIUS LLP
The Nemours Building
1007 North Orange Street, Suite 501
Wilmington, Delaware 19801
Telephone: 302.574.3000
jody.barillare@morganlewis.com

Brett Schuman (*pro hac vice*)
Rachel M. Walsh (*pro hac vice*)
GOODWIN PROCTER LLP
Three Embarcadero Center, 24th Floor
San Francisco, California 94111
Telephone: 415.733.6000
Facsimile: 415.677.9041
bschuman@goodwinprocter.com
rwalsh@goodwinprocter.com

Andrew S. Ong (*pro hac vice*)
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, California 94063
Telephone: 650.752.3100
Facsimile: 650.853.1038
aong@goodwinlaw.com

Counsel for Defendant 2Wire, Inc.

TABLE OF CONTENTS

I.	NATURE OF THE CASE.....	1
A.	PROCEDURAL HISTORY.....	1
II.	FEDERAL JURISDICTION.....	3
III.	FACTS WHICH ARE ADMITTED AND REQUIRE NO PROOF.....	3
IV.	ISSUES OF FACT WHICH REMAIN TO BE LITIGATED.....	3
V.	ISSUES OF LAW WHICH REMAIN TO BE LITIGATED.....	3
VI.	EXHIBITS TO BE OFFERED AT TRIAL.....	4
A.	Trial Exhibits	4
B.	Procedures for Demonstrative Exhibits	5
VII.	WITNESSES	7
A.	Trial Witnesses.....	7
B.	Order of Proof.....	7
C.	Presentation of Witnesses at Trial.....	8
D.	Deposition Designations	9
VIII.	PLAINTIFF’S STATEMENT OF INTENDED PROOF	11
A.	VALIDITY	11
IX.	DEFENDANT’S STATEMENT OF INTENDED PROOF	11
A.	VALIDITY	11
X.	CERTIFICATION REGARDING SETTLEMENT	11
XI.	ADDITIONAL MATTERS	12
A.	Expected Duration and Scope of Trial.....	12
1.	TQ Delta’s Position.....	12
2.	2Wire’s Position.....	12
B.	Jury Trial.....	13
C.	Federal Judicial Center Introduction to Patent System Video	13
1.	TQ Delta’s Position.....	13
2.	2Wire’s Position.....	14
D.	Interrogatories	14
E.	Motions <i>in Limine</i>	14
XII.	ORDER TO CONTROL COURSE OF ACTION	15

Plaintiff TQ Delta, LLC and 2Wire, Inc. jointly submit this Pretrial Order pursuant to Federal Rule of Civil Procedure 16, District of Delaware Local Rule 16.3, and the Court's Final Scheduling Order, D.I. 513. The pretrial conference is scheduled for July 8, 2022 at 9:00 a.m., and a subsequent jury trial against 2Wire in Civil Action No. 13-cv-1835-RGA (for validity of the Family 6 Patent per the Court's Oral Order, D.I. No. 1596) will take place starting on July 18, 2022, and will last for 3 days, D.I. 1594.

This order shall control the subsequent course of the action, unless modified by the Court.

I. NATURE OF THE CASE

1. TQ Delta is the owner by assignment of a portfolio of patents relating to digital subscriber line ("DSL") technology, including for example asymmetric digital subscriber line ("ADSL") technology and very-high-bit-rate digital subscriber line ("VDSL") technology. DSL allows existing telephone lines to be used for high speed data communication, including broadband access to the Internet.

2. The Family 6 patent being asserted by TQ Delta against 2Wire is U.S. Patent No. 8,462,835 ("835 Patent" or "The Asserted Family 6 Patent"). TQ Delta asserts claims 8 and 10 of the '835 patent (collectively "the Asserted Claims").

3. 2Wire makes DSL equipment (e.g., DSL gateways or modems) that TQ Delta accuses of infringing the Asserted Claims.

A. PROCEDURAL HISTORY

4. On November 4, 2013, TQ Delta filed a complaint against Pace Americas, Inc. alleging infringement of 19 U.S. patents, including the '835 Patent. D.I. 1. On November 20, 2013, TQD filed a First Amended Complaint ("FAC") adding five additional patents. D.I. 6. TQD filed a Second Amended Complaint ("SAC") on February 7, 2014. D.I. 24. TQD filed a Third Amended Complaint on October 13, 2017. D.I. 380.

5. On March 27, 2018, 2Wire filed its Answer, Affirmative Defenses, and Counterclaims to TQ Delta's Third Amended Complaint, in which 2Wire denied TQ Delta's allegations of infringement, and asserted various affirmative defenses including, but not limited to, TQ Delta's failure to comply with 35 U.S.C. § 287. D.I. 505. In its Counterclaims, 2Wire asserted a declaratory judgment action seeking, *inter alia*, a declaration that each of the asserted patents is invalid for failure to meet the requirements of one or more sections of 35 U.S.C. §§ 101 *et seq.* and that 2Wire does not infringe any valid and enforceable claim of those patents. *Id.* 2Wire further asserted a claim that TQ Delta breached its contract with the ITU to license its patents on FRAND terms.

6. The Court's Final Scheduling Order divided the case against 2Wire into separate trials such that only a single patent family will be at issue in any single jury trial. D.I. 513. The Court ordered the trials in this case proceed on liability issues prior to damages and FRAND issues. D.I. No. 1045.

7. On June 28, 2021, the Court granted TQ Delta's Motion for Summary Judgment of Infringement of claims 8 and 10 of the '835 patent. D.I. 1567, 1568. The Court denied the parties' respective motions for summary judgment regarding the validity and invalidity of the asserted claims. D.I. 1580, 1581. Accordingly, the validity case is scheduled to go to trial on July 18, 2022 with respect to TQ Delta's "Family 6 Patent." D.I. 1594.

A. Outstanding Motions

1. The Following Plaintiff's Motions Remain Outstanding (relating to Family 6 Validity)

8. Other than Plaintiff's Motions in Limine, attached hereto as Exhibit 10, Plaintiff has no outstanding motions regarding issues of validity of the Family 6 Patent.

2. The Following Defendant's Motions Remain Outstanding (relating to Family 6 Validity)

9. 2Wire's Motions in Limine are attached hereto as Exhibits 13, 14, and 15. 2Wire has no other outstanding motions relating to invalidity of the '835 patent.

II. FEDERAL JURISDICTION

10. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 et seq., including 35 U.S.C. § 271. This Court has subject matter jurisdiction over TQ Delta's claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

11. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1391, §1400(b). Venue is not disputed.

12. TQ Delta owns all right, title, and interest in the Asserted Family 6 patent. Standing is not disputed.

III. FACTS WHICH ARE ADMITTED AND REQUIRE NO PROOF

13. The parties' joint statement of facts which are admitted and require no proof is attached as Exhibit 1.

IV. ISSUES OF FACT WHICH REMAIN TO BE LITIGATED

14. TQ Delta's statement of issues of fact which remain to be litigated is attached as Exhibit 2. 2Wire's statement of issues of fact which remain to be litigated is attached as Exhibit 3.

V. ISSUES OF LAW WHICH REMAIN TO BE LITIGATED

15. TQ Delta's statement of issues of law which remain to be litigated is attached as Exhibit 4. 2Wire's statement of issues of law which remain to be litigated is attached as Exhibit 5.